

REMARKS

Claims 1-47 are currently pending in the application. By this amendment, claims 1, 2, 34, 38, 39 and 40 are amended. No new matter is added. Reconsideration in view of the above amendment and the following remarks is respectfully requested.

35 U.S.C. §101 Rejection

Claims 1-40 and 45-46 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully traverses the 35 U.S.C. §101 rejection.

Claims 1, 2, 34, 38, 39 and 40 are amended to recite, in part, “A computer-implemented method” and to specify that information is forwarded “electronically” (claims 34, 38, 39 and 40) or in “electronic format” (claims 1 and 2). Applicant submits that these amendments overcomes the 35 U.S.C. §101 rejection of independent claims 1, 2, 34, 38, 39 and 40 and also the claims depending therefrom, respectively, due to at least their dependency.

35 U.S.C. §102 Rejections

Claims 1-47 were rejected under 35 U.S.C. §102(e) for being anticipated by U.S. Patent Publication No. US 2002/0026394 to Savage, et al. (“Savage”). This rejection is respectfully traversed.

For anticipation of a claim under 35 U.S.C. § 102, a single prior art reference must contain each and every limitation of the claim, either expressly or under the doctrine of inherency. *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988). To “contain” the limitation the reference must explicitly describe the limitation, or describe an operation inherently requiring the limitation, completely enough to place limitation “in the possession of the public.” *In re Epstein*, 32 F.3d 1559, 31 USPQd 1817 (Fed. Cir. 1994). For a reference to inherently have a limitation the reference must describe an apparatus or method which must have the subject limitation to operate in the manner that is described. See *Continental Can Company USA, Inc. v. Monsanto Co.*, 948 F.2d 1264, 20 USPQd 1746 (Fed. Cir. 1991). Applicant submits that the Savage reference does not contain or describe each and every limitation the subject matter of the claimed invention.

The invention is generally directed in an embodiment to a method and system of distributing receivables. As set forth by the method of claim 1, receivable (e.g., charged-off consumer receivables, charged-off commercial receivables and/or delinquent consumer receivables) information may be offered electronically by a grantor to a potential grantee along with a purchase option providing the potential grantee the right but not the obligation to purchase the receivable and providing the grantor the obligation to sell the receivable. Further, according to the method of claim 1, an option fee may be offered by the potential grantee to the grantor wherein the acceptance of the option by the grantor provides the potential grantee the right to purchase the receivable at or before

the end of an option period. The purchase option may include establishing a notification date before which the potential grantee is required to provide notification to the grantor regarding purchasing the receivable and the option period is a time period that exists between accepting the option fee by the grantor and the notification date.

An embodiment of the invention, as set forth by claim 34 also provides a computer-implemented method for determining the distribution of receivables from a grantor to a grantee. The method of claim 34 comprises the steps of forwarding information electronically regarding desired receivables from a grantee to at least one potential grantor and offering a purchase option to the potential grantor, the purchase option providing the grantee the right but not the obligation to purchase the receivables, the purchase option providing the potential grantor with an obligation to sell the receivables. The method of claim 34 further comprises offering, by the grantee to the potential grantor, an option fee and accepting the option fee by the potential grantor from the grantee, acceptance of the option fee by the potential grantor constituting an acceptance by the potential grantor of the purchase option from the grantee and thereby providing the grantee the right to purchase the receivables at or before the end of an option period wherein the offering a purchase option includes establishing a notification date, the notification date being a date on or before which the grantee is required by the purchase option to provide notification to the potential grantor regarding purchase of the receivables, wherein the option period is a time period that exists between the accepting the option fee by the potential grantor and the notification date.

In another embodiment of the invention, as set forth by claim 38, a computer-implemented method for determining the distribution of receivables from a lessor to a lessee is provided. The method includes the steps of forwarding information electronically regarding at least one receivables from an lessor to at least one potential lessee and offering an lease option to the potential lessee, the lease option providing the potential lessee the right but not the obligation to lease the receivables, the lease option providing the lessor with an obligation to lease the receivables. The method may also include the steps of offering, by the potential lessee to the lessor, an option fee and accepting the option fee by the lessor from the potential lessee, acceptance of the option fee by the lessee constituting an acceptance by the lessor of the lease option from the potential lessee and thereby providing the potential lessee the right to receive an lease of the receivables at or before the end of an option period. The option may include establishing a notification date, the notification date being a date on or before which the potential lessee is required by the lease option to provide notification to the lessor regarding receiving a lease of the receivables, wherein the option period is a time period that exists between the accepting the option fee by the lessor and the notification date. Similar embodiments are also provided for including an assignor/assignee relationship, as set for the by claim 39, and including a licensor/licensee relationship, as set forth by claim 40.

In another embodiment, as set forth by claim 41, a computer implemented method for determining the distribution of receivables from a grantor to a grantee is provided. The method of claim 41 comprises the steps of obtaining grantor information regarding at least one receivable from a grantor and obtaining grantee information regarding at least one desired receivable from a grantee. The method of claim 41 also includes matching the grantee with the grantor, the matching being based on the grantor information and the grantee information and offering an option to the potential grantee, the option providing the potential grantee the right but not the obligation to acquire the receivable, the option providing the grantor with an obligation to convey the receivable to the grantee. Further, the method of claim 41 includes offering an option fee from the potential grantee to the grantor and determining acceptance of the option fee by the grantor from the potential grantee, acceptance of the option fee by the grantor constituting an acceptance by the grantor of the option from the potential grantee and thereby providing the potential grantee the right to acquire the receivable at or before the end of an option period wherein the offering an option includes establishing a notification date, the notification date being a date on or before which the potential grantee is required by the option to provide notification to the grantor regarding acquisition of the receivable.

In another embodiment, the invention is generally directed system of distributing receivables, as set forth by the method of claim 47. The system of claim 47 comprises means for forwarding receivable (e.g., charged-off consumer receivables, charged-off

commercial receivables and/or delinquent consumer receivables) information electronically by a grantor to a potential grantee and a means for offering a purchase option providing the potential grantee the right but not the obligation to purchase the receivable and providing the grantor the obligation to sell the receivable. Further, the system of claim 47 comprises a means for offering an option fee by the potential grantee to the grantor and a means for accepting the option fee by the grantor from the potential grantee, the acceptance of the option fee constituting an acceptance by the grantor of the purchase option thereby providing the potential grantee the right to purchase the receivable at or before the end of an option period. The purchase option may include establishing a notification date before which the potential grantee is required to provide notification to the grantor regarding purchasing the receivable and the option period is a time period that exists between accepting the option fee by the grantor and the notification date.

The invention of Savage, however, is generally directed to a computerized ***billing*** system which automatically assembles and aggregates account charges such as usage charges, fees, finance charges, discounts, rebates and rewards. A combined bill may be rendered to a customer from the aggregation. However, the invention as disclosed by Savage bears little resemblance to the claimed invention and Applicant submits that many claimed features are not disclosed or suggested by Savage. Moreover, the Examiner asserts in a broad manner that the billing system of Savage discloses the features of claims 1-47 by repeatedly citing p.3, 21; p.5-6, 56; p. 7, 64; p.

9, 72; and p. 15, 107-108. However, examination of these passages (and the Savage disclosure overall) fails to support the Examiner's assertion. For example, the cited passage at p. 3, 21 discloses that a financial institution may increase revenues through "statementing" savings of sharing or providing billing services to energy companies.

Further, the cited Savage passage at p. 5-6, 56 simply discloses computer systems configured to support receivables management, such as financing of receivables, risk management and collections and may include discounting receivables for immediate cash. This management system is a typical management system that controls accounting for payments/debits but does not control options for the sale or transfer of rights to the receivables themselves as an entity, as taught by the invention. Moreover, Applicant assumes that the Examiner may be referring to this occurrence of "discounting" (at this passage) when attempting to equate "discount" to an "option fee" of the invention. The "discounting" disclosed at this passage is a simple accounting technique known in the art to obtain quick cash payments to retire a debt/receivable by offering a discount for cash. However, a "discount" disclosed by Savage is not an "option fee" as taught by the invention. An "option fee" is associated with an option which has defined attributes and includes such concepts as conveying rights (when the option fee is accepted) for an option period as specified by the option. This concept is simply not present in this passage or anywhere else in Savage. No fee is ever paid (other than actually buying the receivables outright) in Savage to acquire any type of right to receivables. The "discount" in Savage simply involves payment of the receivable debt

itself in order to retire the debt/receivable. In contrast, the option fee of the invention is typically an “extra” fee paid (e.g., over and above the associated receivable) for a right (e.g., to obtain or provide a license, a grant or lease, etc.) to the receivables during a time period established by the option which typically has nothing to do with directly retiring the debt/receivable as the “discount” does in Savage.

The Savage passage cited by the Examiner at p. 7, 64 has no apparent relevance to the claimed inventions. This passage is simply disclosing that a computer system sends information to customers to fulfill requests from customers such as customer changes and disconnects or stores data relating to customers, etc. Applicant fails to see how this broadly cited passage discloses anything pertinent to the claimed inventions. Applicant respectfully requests that the Examiner clarify the relevance of this passage.

The cited Savage passage at p. 9, 72 discloses a product configuration management system that establishes product ID and definition. The system establishes bundling relationships for an offer, product, and/or component and maintains sales prices by units, such as one-time fees, rebates and the like. However, this passage (along with the other Examiner cited passages) also fails to disclose many of the features of the claimed inventions such as, for example, offering a purchase option to a potential grantee (claim 1, 2), offering a purchase option to a potential grantor (claim 34), offering a lease option to a potential lessee (claim 38), offering an assignment option (claim 39), offering a license option (claim 40) or obtaining grantor information regarding at least one receivable from a grantor and obtaining grantee information

regarding at least one desired receivable and matching the grantee with the grantor (claim 41).

The cited Savage passage at p. 15, 107-108 discloses an embodiment of a system that calculates a bundle discount such as for credit cards and non-telephony charges and also discloses that a financial institution can purchase the receivables. In another embodiment at this passage, a usage bill is disclosed that can be purchased by a financial institution and as a result, transfer of receivables may occur. However, this cited passage again fails to disclose many of the limitations of the claimed inventions such as, for example, offering a purchase option to a potential grantee (claim 1, 2), offering a purchase option to a potential grantor (claim 34), offering a lease option to a potential lessee (claim 38), offering an assignment option (claim 39), offering a license option (claim 40) or obtaining grantor information regarding at least one receivable from a grantor and obtaining grantee information regarding at least one desired receivable and matching the grantee with the grantor (claim 41). On the whole, Savage nowhere discloses or suggests anything related to, at least, options, option fees, or the characteristics associated with the option such as an option period or rights to receivables based on options. These concepts along with many other concepts are simply not present in Savage. Further, Savage nowhere discloses many of the steps of the claimed inventions. Accordingly, since Savage does not at least disclose all the steps and limitations of independent claims 1, 2, 34, 38, 39, 40 and 41, Applicants respectfully

submits that these claims are allowable and that the claims depending therefrom, respectively, are also allowable for at least due to their dependency.

In reference to claim 47, Applicant submits that independent claim 47 is written, in means-plus-function language such that, in order to reject such a claim, the references must expressly or inherently perform a function identical to that of the means element, and the reference's structure for performing the function must be equivalent to that disclosed in the subject specification. *In re Donaldson Company, Inc.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). MPEP § 2182. However, the applied Savage reference does not show or even remotely suggest an identical function, either expressly or inherently, and the structures of the applied references do not perform the equivalent function of the claimed invention. For example, claim 47 requires, in part, the structure to perform the function of:

offering a purchase option to the potential grantee, the purchase option providing the potential grantee the right but not the obligation to purchase the receivable, the purchase option providing the grantor with an obligation to sell the receivable;

offering, by the potential grantee to the grantor, an option fee;
accepting the option fee by the grantor from the potential grantee, acceptance of the option fee by the grantor constituting an acceptance by the grantor of the purchase option from the potential grantee and thereby providing the potential grantee the right to purchase the receivable at or before the end of an option period wherein the offering a purchase option includes establishing a notification date, the notification date being a date on or before which the potential grantee is required by the purchase option to provide notification to the grantor regarding purchase of the receivable, wherein the option period

is a time period that exists between the accepting the option fee by the grantor and the notification date.


Since, Savage does not disclose an identical function of claim 47, for example, at least, offering a purchase option (with characteristics such as an option period and notification date, etc.), Applicant submits that claim 47 is allowable and the rejection of claim 47 should now be withdrawn.

Accordingly, Applicant respectfully requests that the rejection over claims 1-47 be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 23-1951.

Respectfully submitted,



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